

IC 22-4-19

Chapter 19. Administration of Department of Workforce Development

IC 22-4-19-1

Rules and regulations; investigations; change of rates

Sec. 1. The board shall have the power and authority to adopt, amend, or rescind such rules and regulations to employ such persons, make such expenditures, require such reports, make such investigations and take such other action as it may deem necessary or suitable for the proper administration of this article. All rules and regulations issued under the provisions of this article shall be effective upon publication in the manner hereinafter provided and shall have the force and effect of law. The board may prescribe the extent, if any, to which any rule or regulation so issued or legal interpretation of this article shall be with or without retroactive effect. Whenever the board believes that a change in contribution or benefit rates will become necessary to protect the solvency of the unemployment insurance benefit fund, it shall promptly so inform the governor and the general assembly, and make recommendations with respect thereto.

(Formerly: Acts 1947, c.208, s.2001.) As amended by Acts 1978, P.L.6, SEC.32; P.L.108-2006, SEC.38.

IC 22-4-19-2

Repealed

(Repealed by P.L.108-2006, SEC.66.)

IC 22-4-19-3

Repealed

(Repealed by P.L.108-2006, SEC.66.)

IC 22-4-19-4

Professional employees; compensation; bond

Sec. 4. Subject to the further provisions of this article, the board is authorized to appoint, fix the compensation, and prescribe the duties and powers of such officers, accountants, attorneys, experts, and other persons as may be necessary in the performance of its duties. All positions shall be filled by persons selected and appointed as provided in this section. The board may authorize any such person so appointed to do any act or acts which would lawfully be done by the board and may, in its discretion, require suitable bond from any person charged with the custody of any money or securities.

(Formerly: Acts 1947, c.208, s.2004.) As amended by P.L.144-1986, SEC.111.

IC 22-4-19-5

Training; public works; use of unemployed

Sec. 5. The board, through its appropriate activities, shall take all appropriate steps to reduce and prevent unemployment; to encourage

and assist in the adoption of practical methods of career and technical training, retraining, and vocational guidance; to investigate, recommend, advise, and assist in the establishment and operation, by municipal corporations, counties, school districts, and the state, of reserves for public works to be used in times of business depression and unemployment; to promote the re-employment of unemployed workers throughout the state in every way that may be feasible; and to these ends to carry on and publish the results of investigations and research studies.

(Formerly: Acts 1947, c.208, s.2005.) As amended by P.L.234-2007, SEC.143.

IC 22-4-19-6

Records; inspection; reports; confidentiality; violations; processing fee

Sec. 6. (a) Each employing unit shall keep true and accurate records containing information the department considers necessary. These records are:

- (1) open to inspection; and
- (2) subject to being copied;

by an authorized representative of the department at any reasonable time and as often as may be necessary. The department, the review board, or an administrative law judge may require from any employing unit any verified or unverified report, with respect to persons employed by it, which is considered necessary for the effective administration of this article.

(b) Except as provided in subsections (d) and (f), information obtained or obtained from any person in the administration of this article and the records of the department relating to the unemployment tax or the payment of benefits is confidential and may not be published or be open to public inspection in any manner revealing the individual's or the employing unit's identity, except in obedience to an order of a court or as provided in this section.

(c) A claimant or an employer at a hearing before an administrative law judge or the review board shall be supplied with information from the records referred to in this section to the extent necessary for the proper presentation of the subject matter of the appearance. The department may make the information necessary for a proper presentation of a subject matter before an administrative law judge or the review board available to an agency of the United States or an Indiana state agency.

(d) The department may release the following information:

- (1) Summary statistical data may be released to the public.
- (2) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the Indiana economic development corporation only for the following purposes:

- (A) The purpose of conducting a survey.
- (B) The purpose of aiding the officers or employees of the

Indiana economic development corporation in providing economic development assistance through program development, research, or other methods.

(C) Other purposes consistent with the goals of the Indiana economic development corporation and not inconsistent with those of the department, including the purposes of IC 5-28-6-7.

(3) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the budget agency and the legislative services agency only for aiding the employees of the budget agency or the legislative services agency in forecasting tax revenues.

(4) Information obtained from any person in the administration of this article and the records of the department relating to the unemployment tax or the payment of benefits for use by the following governmental entities:

(A) department of state revenue; or

(B) state or local law enforcement agencies;

only if there is an agreement that the information will be kept confidential and used for legitimate governmental purposes.

(e) The department may make information available under subsection (d)(1), (d)(2), or (d)(3) only:

(1) if:

(A) data provided in summary form cannot be used to identify information relating to a specific employer or specific employee; or

(B) there is an agreement that the employer specific information released to the Indiana economic development corporation, the budget agency, or the legislative services agency will be treated as confidential and will be released only in summary form that cannot be used to identify information relating to a specific employer or a specific employee; and

(2) after the cost of making the information available to the person requesting the information is paid under IC 5-14-3.

(f) In addition to the confidentiality provisions of subsection (b), the fact that a claim has been made under IC 22-4-15-1(c)(8) and any information furnished by the claimant or an agent to the department to verify a claim of domestic or family violence are confidential. Information concerning the claimant's current address or physical location shall not be disclosed to the employer or any other person. Disclosure is subject to the following additional restrictions:

(1) The claimant must be notified before any release of information.

(2) Any disclosure is subject to redaction of unnecessary identifying information, including the claimant's address.

(g) An employee:

(1) of the department who recklessly violates subsection (a), (c), (d), (e), or (f); or

(2) of any governmental entity listed in subsection (d)(4) who recklessly violates subsection (d)(4); commits a Class B misdemeanor.

(h) An employee of the Indiana economic development corporation, the budget agency, or the legislative services agency who violates subsection (d) or (e) commits a Class B misdemeanor.

(i) An employer or agent of an employer that becomes aware that a claim has been made under IC 22-4-15-1(c)(8) shall maintain that information as confidential.

(j) The department may charge a reasonable processing fee not to exceed two dollars (\$2) for each record that provides information about an individual's last known employer released in compliance with a court order under subsection (b).

(Formerly: Acts 1947, c.208, s.2006.) As amended by Acts 1978, P.L.2, SEC.2217; P.L.17-1984, SEC.6; P.L.18-1987, SEC.57; P.L.135-1990, SEC.17; P.L.110-1992, SEC.1; P.L.21-1995, SEC.97; P.L.235-1999, SEC.11; P.L.290-2001, SEC.15; P.L.189-2003, SEC.8; P.L.4-2005, SEC.131; P.L.108-2006, SEC.39; P.L.175-2009, SEC.33; P.L.182-2009(ss), SEC.367; P.L.110-2010, SEC.33.

IC 22-4-19-6.5

Information available through enhanced electronic access system

Sec. 6.5. (a) The department may make available through the enhanced electronic access system established by the office of technology established by IC 4-13.1-2-1 secure electronic access for creditors to employer provided information on the amount of wages paid by an employer to an employee.

(b) The enhanced electronic access system established by the office of technology may enter into a contract with one (1) or more private entities to allow private entities to provide secure electronic access to employer provided information held by the department on the amount of wages paid by an employer to an employee.

(c) A creditor may obtain wage report information from a private entity if the creditor first obtains written consent from the employee whose information the creditor seeks to obtain. A creditor that has entered into a contract with the enhanced electronic access system must retain a written consent received under this section for at least three (3) years or for the length of the loan if the loan is for less than three (3) years.

(d) Written consent from the employee must include the following:

(1) A statement that the written consent is the authorization for the creditor to obtain information on the employee's employment and wage history.

(2) A statement that the information is obtained solely for the purpose of reviewing a specific application for credit.

(3) Notification that state agency files containing employment and wage history will be accessed to provide the information.

(4) A listing of all parties that will receive the information obtained.

(e) Information under this section may only be released to a creditor for the purpose of satisfying the standard underwriting requirements of the creditor or a client of the creditor for one (1) credit transaction per employee written consent.

(f) The costs of implementing and administering the release of information must be paid by the private entity or entities that contract with the enhanced electronic access system established by the office of technology.

(g) For employee information under this section, a private entity that enters a contract with the enhanced electronic access system established by the office of technology for release of employee information must comply with:

- (1) the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.);
- (2) all state and federal privacy laws; and
- (3) the rules regarding the release of information adopted by the United States Department of Labor.

(h) A private entity that has entered into a contract with the enhanced electronic access system under subsection (b) must maintain a consent verification system that audits at least five percent (5%) of daily transactions and must maintain a file of audit procedures and results.

(i) A person who violates this section commits a Class A infraction.

As added by P.L.226-1999, SEC.1. Amended by P.L.177-2005, SEC.43.

IC 22-4-19-7

Records; examination

Sec. 7. In any case where an employing unit, or any officer, member, or agent thereof or any other person having possession of the records thereof, shall fail or refuse upon demand by the board, the department, the review board, or an administrative law judge, or the duly authorized representative of any of them, to produce or permit the examination or copying of any book, paper, account, record, or other data pertaining to payrolls or employment or ownership of interests or stock in any employing unit, or bearing upon the correctness of any contribution report, or for the purpose of making a report as required by this article where none has been made, then and in that event the board, the department, the review board, or the administrative law judge, or the duly authorized representative of any of them, may by issuance of a subpoena require the attendance of such employing unit, or any officer, member, or agent thereof or any other person having possession of the records thereof, and take testimony with respect to any such matter and may require any such person to produce any books or records specified in such subpoena.

(Formerly: Acts 1947, c.208, s.2007.) As amended by P.L.144-1986, SEC.112; P.L.135-1990, SEC.18; P.L.290-2001, SEC.16; P.L.108-2006, SEC.40; P.L.175-2009, SEC.34.

IC 22-4-19-8**Records; subpoenas; enforcement**

Sec. 8. (a) The board, the department, the review board, or the administrative law judge, or the duly authorized representative of any of them, at any such hearing shall have power to administer oaths to any such person or persons. When any person called as a witness by such subpoena, duly signed, and served upon the witness by any duly authorized person or by the sheriff of the county of which such person is a resident, or wherein is located the principal office of such employing unit or wherein such records are located or kept, shall fail to obey such subpoena to appear before the board, the department, the review board, or the administrative law judge, or the authorized representative of any of them, or shall refuse to testify or to answer any questions, or to produce any book, record, paper, or other data when notified and demanded so to do, such failure or refusal shall be reported to the attorney general for the state of Indiana who shall thereupon institute proceedings by the filing of a petition in the name of the state of Indiana on the relation of the board, in the circuit court or superior or other court of competent jurisdiction of the county where such witness resides, or wherein such records are located or kept, to compel obedience of and by such witness.

(b) Such petition shall set forth the facts and circumstances of the demand for and refusal or failure to permit the examination or copying of such records or the failure or refusal of such witness to testify in answer to such subpoena or to produce the records so required by such subpoena. Such court, upon the filing and docketing of such petition shall thereupon promptly issue an order to the defendants named in said petition, to produce forthwith in such court or at a place in such county designated in such order, for the examination or copying by the board, the department, the review board, an administrative law judge, or the duly authorized representative of any of them, the records, books, or documents so described and to testify concerning matters described in such petition. Unless such defendants to such petition shall appear in said court upon a day specified in such order, which said day shall be not more than ten (10) days after the date of issuance of such order, and offer, under oath, good and sufficient reasons why such examination or copying should not be permitted, or why such subpoena should not be obeyed, such court shall thereupon deliver to the board, the department, the review board, the administrative law judge, or representative of any of them, for examination or copying, the records, books and documents so described in said petition and so produced in such court and shall order said defendants to appear in answer to the subpoena, and to testify concerning the subject matter of the inquiry. Any employing unit, or any officer, member, or agent thereof, or any other persons having possession of the records thereof who shall willfully disobey such order of the court after the same shall have been served upon him, shall be guilty of indirect contempt of such court from which such order shall have issued and may be adjudged in contempt of said court and punished therefor as provided

by law.

(Formerly: Acts 1947, c.208, s.2008.) As amended by P.L.135-1990, SEC.19; P.L.108-2006, SEC.41.

IC 22-4-19-9

Payroll reports; preparation

Sec. 9. If any employing unit fails to make any payroll report required by this article, the commissioner shall give written notice by mail to the employing unit to make and file the report within ten (10) days from the date of the notice. If the employing unit, by its proper members, officers, or agents, fails or refuses to make and file the report within such time, the report shall be made by the department from the best information available, and the amount of contribution due shall be computed thereon and the report shall be prima facie correct for the purposes of this article.

(Formerly: Acts 1947, c.208, s.2009; Acts 1951, c.295, s.11.) As amended by P.L.20-1986, SEC.13; P.L.18-1987, SEC.58; P.L.21-1995, SEC.98; P.L.290-2001, SEC.17; P.L.42-2011, SEC.42.

IC 22-4-19-10

Reports; failure to file; penalties

Sec. 10. Any employing unit which negligently or wilfully fails to submit any report of information required for the proper administration of this article demanded by the commissioner within ten (10) days after request for the same is sent to the employing unit by registered mail shall be assessed a penalty of twenty-five dollars (\$25).

(Formerly: Acts 1947, c.208, s.2010; Acts 1971, P.L.355, SEC.44.) As amended by P.L.21-1995, SEC.99.

IC 22-4-19-11

Records; destruction

Sec. 11. The commissioner may destroy or otherwise dispose of under IC 5-15-5.1-14 such reports or records as have been properly recorded or summarized in the records of the department.

(Formerly: Acts 1947, c.208, s.2011.) As amended by P.L.144-1986, SEC.113; P.L.18-1987, SEC.59; P.L.121-1995, SEC.3; P.L.21-1995, SEC.100.

IC 22-4-19-12

Records; foreign states and foreign countries; criminal actions

Sec. 12. Records, with any necessary authentication thereof, required in the prosecution of any criminal action brought by another state or foreign government for misrepresentation or failure to disclose a material fact to obtain benefits under the law of this state, shall be made available to the agency administering the employment security law of any such state or foreign government for the purpose of such prosecution.

(Formerly: Acts 1947, c.208, s.2012; Acts 1951, c.295, s.11 1/2.)

IC 22-4-19-13**Benefits; charges to experience accounts; change of rates; notice**

Sec. 13. (a) Where an employer makes an offer of employment directly to a claimant, promptly giving written notice to the department of such offer, or when any such employer makes such offer of employment in writing through the department, the commissioner, the deputy, or an authorized representative of the state or the United States employment service, which offer shall specify such claimant by name, and when such claimant thereafter fails to register subsequent to the receipt of such offer of employment by the department, the commissioner, the deputy, or an authorized representative of the state or the United States employment service, then a notice in writing shall promptly be mailed to such employer of such claimant's said failure to return and to register. If such claimant thereafter, in the claimant's benefit period, again registers or renews and continues the claimant's claim for benefits, such employer shall promptly be mailed notice of such fact in order that the employer may have an opportunity to renew and remake an offer of employment to such claimant.

(b) Upon the filing by an individual of an additional claim for benefits, a notice in writing or a carbon copy of such additional claim shall be mailed promptly to the base period employer or employers and to the employing unit including an employer from whose employ the individual claims to have been last separated.

(c) Upon the filing by an individual of an initial claim for benefits, a notice in writing or a carbon copy of such initial claim shall be mailed promptly to the employing unit including an employer from whose employ the individual claims to have been last separated. The computation of the benefit rights of such individual shall be made as promptly as possible and, if such claim is deemed valid, then a notice of benefit liability shall be mailed to each employer whose experience account is potentially chargeable with benefits to be paid to such individual. Such notice shall contain the date, the name and social security number of the individual, the ending date of the individual's base period, and the week ending date of the first week of the individual's benefit year. Such notice shall further contain information as to the proportion of benefits chargeable to the employer's experience account in ratio to the earnings of such individual from such employer and shall advise such employer of the employer's right to protest such claim and the payment of any benefits thereon and of the place and time within which protest must be made and the form and contents thereof.

(d) Whenever a determination is made with respect to the validity of any claim for benefits, or the eligibility of any claimant for benefits, which involves the cancellation of wage credits or benefit rights, the imposition of any disqualification, period of ineligibility or penalty, or the denial thereof, a notice in writing shall promptly be mailed to such claimant and to each employer directly involved or connected with the issue raised as to the validity of such claim, the eligibility of such claimant for benefits, or the imposition of a

disqualification period of ineligibility or penalty, or the denial thereof. Such employer or such claimant may protest any such determination within such time limits and in such manner as provided in IC 22-4-17-2 and upon said protest shall be entitled to a hearing as provided in IC 22-4-17-2 and IC 22-4-17-3.

(e) Every employer shall be mailed a monthly report of benefit charges which shall contain an itemized statement showing the names of individuals to whom benefits were paid and charged to the experience account of such employer, the weeks with respect to which each such individual received benefits, the amount thereof, and the total amount of benefits charged to such employer's said account during the period covered by such report.

(f) Following the computation of rates of contribution for employers for each calendar year, each employer shall be mailed not later than ninety (90) days after the effective date of such rates a notice in writing setting out the employer's rate of contribution for such year, computed by the department as of the preceding June 30, together with sufficient information for such employer to determine and compute the amount of a voluntary payment required from such employer in order to qualify for and obtain a lower rate of contribution for such year and also advising such employer of the length of time within which or last date upon which said voluntary payment will be received or can be made.

(Formerly: Acts 1947, c.208, s.2013; Acts 1951, c.307, s.4; Acts 1953, c.177, s.24; Acts 1957, c.261, s.4; Acts 1967, c.310, s.21.) As amended by P.L.144-1986, SEC.114; P.L.11-1987, SEC.25; P.L.18-1987, SEC.60; P.L.21-1995, SEC.101.

IC 22-4-19-14

Federal laws; invalidity or stay; suspension of article

Sec. 14. If the board determines that Public Law 94-566 or the federal laws it amends have been adjudged unconstitutional or invalid in its application to, or have been stayed pendente lite as to, a state or a political subdivision or an instrumentality which is wholly owned by the state and one (1) or more other states or political subdivisions and its employees by any court of competent jurisdiction, the board shall suspend the enforcement of this article with respect to these employers and employees to the extent of the adjudged unconstitutionality or inapplicability or of the stay.

As added by Acts 1977, P.L.262, SEC.28.